

STATE OF NORTH DAKOTA
DEPARTMENT OF CORRECTIONS AND REHABILITATION

In the Matter of the Barnes County Corrections Facility,
Valley City, North Dakota

**ORDER MODIFYING AND EXTENDING ORDER OF RECLASSIFICATION AND
ORDER FOR MONITORING**

This Order is issued in accordance with N.D.C.C. § 12-44.1-25.

The North Dakota Department of Corrections and Rehabilitation (“DOCR”) makes the following:

FINDINGS OF FACT

I.

The Barnes County Correctional Facility (“BCCF”) is presently classified as a grade three correctional facility under N.D.C.C. § 12-44.1-06. The BCCF is located at 491 2nd Ave. NW, Valley City, North Dakota. The BCCF was constructed in 1908 and was partially renovated in 1977. BCCF is operated under the authority of the Barnes County Sheriff, Randy McClafin. The Barnes County Commission is the governing authority for the BCCF.

II.

In November of 2017, Facility Inspectors from the North Dakota Department of Corrections and Rehabilitation (“DOCR”) inspected the BCCF. The DOCR found violations of state law and federal law and forty-five (45) violations of the North Dakota Correctional Facility Rules. The DOCR issued an Order of Reclassification and Order of Partial and Temporary Closure and Order Suspending Order of Temporary Closure to the BCCF effective December 19, 2017. The DOCR’s Findings of Fact, Conclusions of Law, and Order effective December 19, 2017 are incorporated into and made a part of this Order by reference.

III.

DOCR Facility Inspectors conducted an annual inspection of the BCCF on November 6, 2018 and conducted an unannounced inspection of the BCCF on December 6, 2018. The DOCR had allowed the BCCF to operate as a grade one correctional facility prior to the December 2018 inspections. The DOCR facility inspectors found the BCCF was non-compliant with nineteen (19) North Dakota Correctional Facility Standards. On December 12, 2018, the DOCR issued an Order of Reclassification to the BCCF and reclassified the BCCF as a grade three correctional facility in accordance with N.D.C.C. § 12-44.1-06.

The DOCR's Findings of Fact, Conclusions of Law, and Order of December 12, 2018 are incorporated into and made a part of this order by reference.

IV.

DOCR Facility Inspectors conducted an annual inspection of the BCCF on November 11, 2019. The DOCR Facility Inspectors found the BCCF was noncompliant with fifteen (15) North Dakota Correctional Facility Standards. The DOCR Office of Facility Inspections Report dated December 12, 2019 is incorporated into and made a part of this order by reference.

V.

The BCCF presented a plan to the DOCR Office of Facility Inspections to correct the violations set forth in the Inspection Report. The DOCR Office of Facility Inspections determined the BCCF was compliant with the North Dakota Correctional Facility Standards as a grade three correctional facility.

VI.

On February 10, 2020, the DOCR completed a monitoring inspection pursuant to the ongoing December 12, 2018 Order of Reclassification and issued its Monitoring Report on February 28, 2020. The DOCR Facility Inspector found the BCCF had two (2) violations of the North Dakota Correctional Facility Standards. The Monitoring Report is incorporated into and made a part of this order by reference.

VII.

The BCCF has made management changes, including changes in staff training procedures, food service protocol, chemical control, tool control, operational procedures, and personnel following the DOCR's December 12, 2018 Order of Reclassification. The Barnes County governing body is considering plans to build a new correctional facility that will comply with North Dakota Correctional Facility Standards and other applicable state and federal law.

Based on the above Findings of Fact, the DOCR makes the following:

CONCLUSIONS OF LAW

I.

The Barnes County Corrections Facility is a county correctional facility subject to N.D.C.C. ch.12-44.1.

II.

N.D.C.C. § 12-44.1-24 requires the DOCR to prescribe rules establishing minimum standards for the construction, operation, and maintenance of county correctional facilities; prescribe rules for the care and treatment of inmates; cause the rules and regulations be made available to inmates; and to appoint a correctional facility inspector qualified by special experience, education, or training to inspect correctional facilities at least once a year to determine if the facility is in compliance with the rules and regulations. Inspection must include health and safety, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined, and personnel training.

III.

The DOCR has promulgated rules in accordance with N.D.C.C. § 12-44.1-24 and has appointed a correctional facility inspector in accordance with the requirements of N.D.C.C. § 12-44.1-24.

IV.

N.D.C.C. § 12-44.1-25 authorizes the Director of the DOCR to issue a report of non-compliance and reclassification if a correctional facility is in violation of any required minimum standards, applicable state or federal law, or DOCR rules for correctional facilities. If a correctional facility fails to complete required corrective action within the time specified in the order of noncompliance, the Director of the Department of Corrections and Rehabilitation may issue an order for full, partial, or temporary closure of the correctional facility. If the Director determines that the extent of the noncompliance presents a danger to the health and safety of inmates, staff, law enforcement, visitors, or the public, the director may issue an order of immediate full, partial, or temporary closure without a prior order of noncompliance.

V.

N.D.C.C. § 12-44.1-25 further authorizes the Director of the DOCR to assess the DOCR's actual costs for inspection and monitoring a correctional facility upon issue of an order of noncompliance to the correctional facility.

VI.

On December 12, 2018, the Director of the DOCR issued an Order of Reclassification pursuant to N.D.C.C. § 12-44.1-25 to remain in effect for not less than twelve months and subject to the DOCR's continuing jurisdiction and authority under N.D.C.C. ch. 12-44.1. The DOCR has not vacated or modified its December 12, 2018 Order of Reclassification and the order is currently in effect. The BCCF's compliance with the North Dakota Correctional Facility Standards and its management changes warrant reclassification from a grade three correctional facility to a grade two correctional facility with a maximum capacity of ten (10) inmates.

ORDER MODIFYING AND EXTENDING ORDER OF RECLASSIFICATION AND ORDER FOR MONITORING

Based on the above Findings of Fact and Conclusions of Law, the DOCR issues this Order Modifying and Extending Reclassification and Monitoring.

IT IS HEREBY ORDERED, in accordance with N.D.C.C. §§ 12-44.1-06 and 12-44.1-25, that the DOCR's Order dated December 12, 2018 shall remain in effect for a period of not less than twenty-four (24) months from the date of this Order and shall be modified and extended as follows:

- 1) The BCCF is reclassified to a grade two correctional facility.
- 2) The BCCF has a maximum capacity of ten (10) inmates. However, any inmates with physical mobility issues must be moved to a facility with appropriate accessibility.
- 3) The BCCF may not house inmates in the dormitory area of the facility.
- 4) The BCCF is subject to monitoring by the DOCR Office of Facility Inspections during the effective period of this Order and subject to the DOCR's continuing jurisdiction and authority under N.D.C.C. ch. 12-44.1 to inspect the BCCF and to establish conditions and requirements the DOCR determines are necessary for the safety of the BCCF inmates and staff, visitors, and the public based upon the DOCR's continuing monitoring and inspections.

IT IS FURTHER ORDERED THAT, the DOCR shall exercise its authority under N.D.C.C. § 12-44.1-25 and order the BCCF be closed if BCCF:

- 1) Fails to maintain improvements and changes it has made since the DOCR's December 12, 2018 Order of Re-classification;
- 2) (a) Abandons plans to pursue a new correctional facility; or
(b) Abandons or fails to pursue correctional services contracts with other North Dakota county correctional facilities or regional corrections centers in lieu of building a new correctional facility; and
- 3) Fails to comply with the North Dakota Correctional Facility Rules, N.D.C.C. ch. 12-44.1, other applicable state and federal law, and the requirements of the DOCR

Dated this 8th day of May 2020



Leann K. Bertsch
Director

North Dakota Department of Corrections and Rehabilitation